

REMARKS

Claims 1-158 are presented for consideration by the Examiner. Applicant notes with appreciation the indication that claims 146, 147, and 149 would be allowable if written in independent form including all of the limitations of the base claim and any intervening claims. Claims 146 and 149 have been rewritten into independent form and claim 143 has been amended in response to the rejections and remarks in the Office Action mailed August 18, 2006, and every ground of rejection has been addressed.

I. EXAMINER INTERVIEW WAS HELD

A telephone interview was held with the Examiner on February 13, 2007, during which agreement was reached on some of the issues raised by applicant. The Examiner's remarks were helpful in assisting applicant's counsel in focusing on elements the Examiner considers most promising. A report of the substance of the interview is contained in the remarks below.

The amendments above were made in accordance with the Examiner's suggestions given during said interview, and applicant makes the following points of law and fact in further support of said amendments. The amendments are made without prejudice to any future submission of the original claims in a subsequent application.

II. REJECTIONS OF CLAIMS UNDER 35 U.S.C. § 112 ARE TREATED

Claims 1-142 and 155-158 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicant notes as stated in MPEP § 2163.03, there is a strong presumption that an adequate written description of the claimed invention is present in the specification as filed. In re Wertheim, 541 F.2d 257, 262, 191 USPQ 90, 96 (CCPA 1976). Consequently, rejection of an original claim for lack of written description should be rare. Moreover, as stated in MPEP § 2163.04, a description as filed is presumed to be adequate, unless or until sufficient evidence or reasoning to the contrary has been presented by the examiner to rebut the presumption. See, e.g., In re Marzocchi, 439 F.2d 220, 224, 169 USPQ 367, 370 (CCPA 1971). The examiner, therefore, must have a reasonable basis to challenge the adequacy of the written description. The examiner has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims. Wertheim, 541 F.2d at 263, 191 USPQ at 97.

As suggested by the examiner, applicant has included herewith, a Declaration of Barton L. Smith under 37 C.F.R. § 1.132 to provide working examples of the invention. As agreed by the examiner in the examiner interview, the description of working examples that fall within the scope of the original

disclosure is suitable evidence to overcome the rejection under 35 U.S.C. § 112, first paragraph. Accordingly, withdrawal of the rejection under 35 U.S.C. § 112, first paragraph is respectfully requested.

III. REJECTIONS OF CLAIMS UNDER 35 U.S.C. 103 ARE TREATED

Claims 143, 144, 145, 148 and 150-154 were rejected as being unpatentable over U.S. Patent No. 5,165,243 to Bennett (hereinafter "Bennett") in view of U.S. Patent No. 5,456,082 to Keolian et al. (hereinafter "Keolian"). Claims 143, 144, 145, 148 and 150-154 were also rejected as being unpatentable over U.S. Patent No. 5,561,984 to Godshalk et al. (hereinafter "Godshalk") in view of Keolian.

Claim 143 has been amended to require removing the sacrificial material "after the stack material and the sacrificial material are rolled together." This subject matter is supported in the disclosure, *inter alia*, FIG. 9, and page 16, lines 1-4, and is therefore not new matter. The Bennett, Godshalk and Keolian references, as well as the other prior art references of record, all fail to disclose this subject matter. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Since the prior art references of record fail to disclose removing the sacrificial material "after the stack material and the

sacrificial material are rolled together," not all of the subject matter required by claim 143 is taught or suggested.

Accordingly, applicant respectfully requests that the rejection of claim 143 be withdrawn.

Dependent claims 144, 145, 148, and 150-154 all depend from claim 143 and are believed to be allowable for at least the reasons given in support of claim 143.

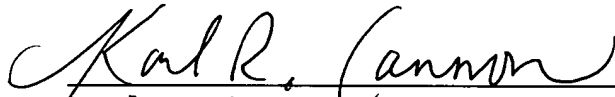
IV. CONCLUSION AND AUTHORIZATION OF DEPOSIT ACCOUNT

In view of the foregoing, applicant believes that claims 1-158 are all allowable and the same is respectfully requested. If any impediment to the allowance of these claims remains after entry of this Amendment, and such impediment could be alleviated during a telephone interview, the Examiner is invited to initiate the same.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 50-0836.

DATED this 20 day of February, 2007.

Respectfully submitted,

A handwritten signature in cursive script that reads "Karl R. Cannon". The signature is written in dark ink and is positioned above a horizontal line.

Karl R. Cannon
Attorney Registration No. 36,468
Attorney for Applicant

Clayton, Howarth & Cannon, P.C.
P.O. Box 1909
Sandy, UT 84091
Telephone: (801) 255-5335
Facsimile: (801) 255-5338

KRC/CBV/

S:\CHC Files\T10--\T100--\T10050\response A.wpd